

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 04-1733

Donald Williams,

Appellant,

v.

Minnesota Department of Corrections,

Appellee.

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Appeal from the United States
District Court for the
District of Minnesota.

[UNPUBLISHED]

Submitted: September 22, 2004
Filed: September 30, 2004

Before MELLOY, LAY, and COLLOTON, Circuit Judges.

PER CURIAM.

Donald Williams filed a petition under 28 U.S.C. § 2254, followed by numerous pretrial motions. On July 22, 2003, the district court¹ affirmed the magistrate judge's denial of several nondispositive motions. On August 19, 2003, the

¹The Honorable John R. Tunheim, United States District Judge for the District of Minnesota, affirming an order of the Honorable Raymond L. Erickson, United States Magistrate Judge for the District of Minnesota. See Fed. R. Civ. P. 72(a).

magistrate judge² denied other nondispositive motions and recommended denying Williams's motion for injunctive relief. Williams filed a notice of appeal (NOA) with respect to the July 22 and August 19 orders. The district court later denied the motion for an injunction, over Williams's objection; and eventually dismissed the habeas petition.

This court has jurisdiction over appeals of the final orders of district courts. See Otey v. Marshall, 121 F.3d 1150, 1154 (8th Cir. 1997) (citing 28 U.S.C. § 1291). Because Williams filed his NOA while his habeas petition was still pending in the district court and did not file a new NOA following the district court's final judgment, we do not have jurisdiction over the appeal. See Miller v. Special Weapons, L.L.C., 369 F.3d 1033, 1035 (8th Cir. 2004). Although rulings on motions for injunctive relief are immediately appealable, see 28 U.S.C. § 1292(a)(1), the district court had not yet ruled on Williams's motion for an injunction when he filed his NOA. See Miller, 369 F.3d at 1035.

Accordingly, we dismiss the appeal for lack of jurisdiction.

²Magistrate Judge Erickson.